

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSHUA WALKER,

Plaintiff,

-v-

C.O. CLEMSON, *et al.*,

Defendants.

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DATE FILED: 8/28/2012

No. 11 Civ. 9623 (RJS) (JLC)
ORDER ADOPTING REPORT AND
RECOMMENDATION

RICHARD J. SULLIVAN, District Judge:

Joshua Walker (“Plaintiff”) filed his Complaint on December 28, 2011, bringing claims pursuant to 42 U.S.C. § 1983 against Defendants C.O. Clemson, a DOC Correction Officer, Rose Agro, Warden of the George R. Vierno Center, and Robert Cripps, Warden of the Vernon C. Bain Center (collectively “Defendants”), alleging violations of his constitutional rights arising from alleged deliberate indifference to his medical needs. Specifically, Plaintiff’s claims arise out of an incident where Clemson took Plaintiff’s personal sneakers and gave him prison-issued sneakers, which caused him severe pain, in exchange. By Order dated February 17, 2012, this matter was referred to the Honorable James L. Cott, Magistrate Judge, for general pre-trial purposes and dispositive motions requiring a report and recommendation.

On June 20, 2012, Judge Cott issued a Report and Recommendation recommending dismissal of this action in its entirety. Pursuant to 28 U.S.C. § 636(b)(1), as amended, and Fed. R. Civ. P. 72(b), the parties had fourteen (14) days, plus an additional three (3) days, pursuant to Fed. R. Civ. P. 6(d), or a total of seventeen (17) days, *see* Fed. R. Civ. P. 6(a), from the date of Judge Cott’s Report and Recommendation to file written objections. No party has filed

objections to the Report, and the time to do so has expired. *Cf. Frank v. Johnson*, 968 F.2d 298 (2d Cir. 1993).

When no objections to a report and recommendation are made, the Court may adopt the report if there is no clear error on the face of the record. *Adee Motor Cars, LLC v. Amato*, 388 F. Supp. 2d 250, 253 (S.D.N.Y. 2005); *La Torres v. Walker*, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000). After reviewing the record, the Court finds that Judge Cott's thorough and well reasoned Report and Recommendation is not facially erroneous. Accordingly, the Court adopts the Report in its entirety, and for the reasons set forth therein, dismisses the Complaint in its entirety. The Clerk of the Court is respectfully requested to terminate the motion pending at Doc. No. 12 and to close this case.

SO ORDERED.

Dated: August 27, 2012
New York, New York



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE

A copy of this Order has been mailed to:

Joshua Walker
441-11-10770
GRVC
09-09 Hazen Street
East Elmhurst, NY 11370